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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,557	07/07/2003	Frank Yang	PAT-1512	5796

7590 05/20/2005
Raymond Sun
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Tustin, CA 92782

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,557	Applicant(s) YANG ET AL.	
	Examiner Jon A Szumny	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is the fourth office action for application number 10614,557, Trash Can Assembly, filed on July 7, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

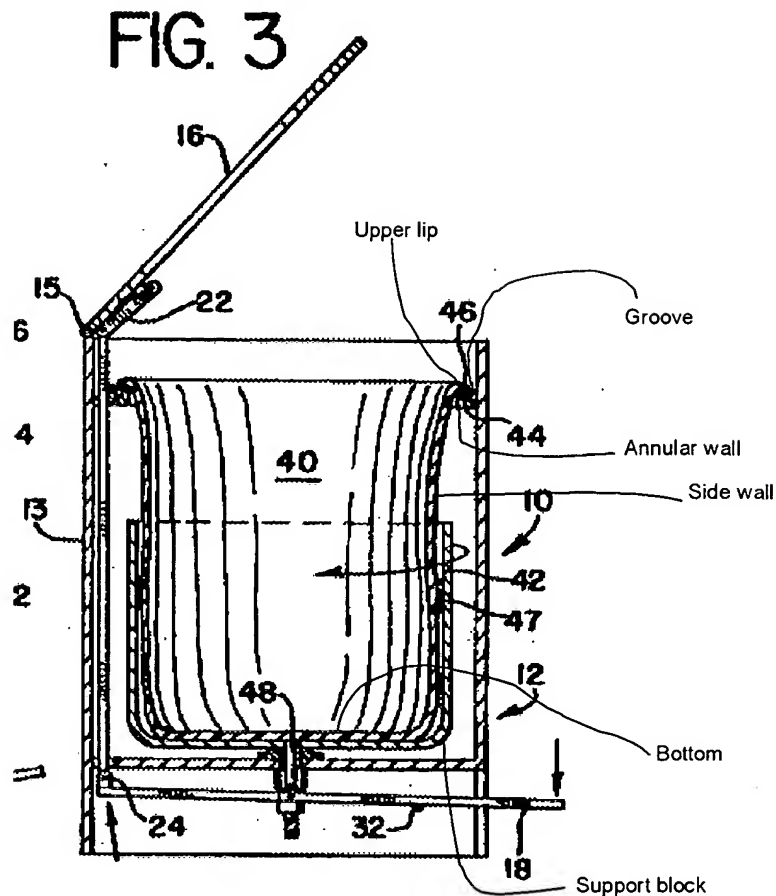
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, it is not understood how the liner can be positioned in both the first position and the second position at the same time. It is suggested that the applicant modify the last few lines of claim 12 to read --...is *adapted to be* positioned in a first position...-- and --...and is *adapted to be positioned* in a second raised position...-- to rectify this rejection. For the purposes of this office action, the Examiner will assume the first and second positions are *functional* positions.

Claim Rejections - 35 USC § 102

Claims 12, 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,125,526 to Sumanis.



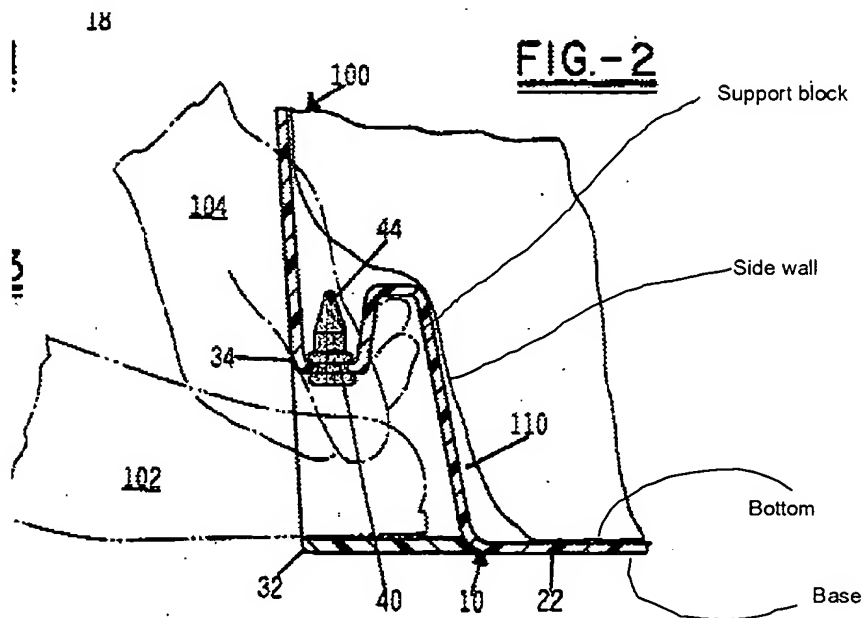
Sumanis '526 discloses a trash can assembly (above), comprising: a shell (12) having a top end and a bottom end; a liner (40) defining a container body having a bottom (above) and an enclosing side wall (above), the liner fitted inside the shell; a lid (16) fitted over the top end of the shell; and a support block (above) provided adjacent the bottom end of the shell, wherein the liner inherently can be positioned in a first position with the support block located side-by-side with the side wall of the container body (as shown above), and in a second raised position with the support block located below the bottom of the container body (for instance, when the liner is raised and removed from the shell), wherein the enclosing side wall has an upper lip (above), and wherein the assembly further includes an annular wall (above) provided at the top

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end of the shell, the annular wall having a groove (above) which exposes a portion of the upper lip, wherein the assembly further includes a foot pedal (18) positioned adjacent the bottom end of the shell, wherein the assembly further includes a link assembly (20,22) coupling the foot pedal and the lid.

Claim Rejections - 35 USC § 103

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 5,390,818 to LaBuda in view of U.S. Patent number 6,808,081 to Citro.



LaBuda '818 discloses a trash can assembly, comprising: a shell (12) having a top end and a bottom end; a liner (100) defining a container body having a bottom (above) and an enclosing side wall (above), the liner fitted inside the shell; and a support block (above) provided adjacent the bottom end of the shell, wherein the liner can be positioned in a first position with the support block located side-by-side with the side wall of the container body (as above), and in a

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second raised position with the support block located below the bottom of the container body (when, for instance, the liner is raised and removed from the shell), wherein the assembly further includes a base (above) provided at the bottom end of the shell, with the support block positioned on the base; and with the bottom of the container body seated on the base when in the first position (as above). However, LaBuda '818 fails to specifically teach a lid to be fitted over the top end of the shell. Nevertheless, Citro '081 teaches the well known practice of fitting a lid (20) over a top end of a shell (12) of a trash can assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have fitted a lid over the top end of the shell of LaBuda '818 so as to assist in thwarting unwarranted access to the inside of the shell.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaBuda '818 in view of Citro '081, and further in view of Yang '315.

LaBuda '818 in view of Citro '081 divulge the previous invention failing to specifically teach a skirt to surround the bottom end of the shell. However, Yang '315 teaches a trash can assembly (figure 3) including a base (38) with a skirt (50) surrounding the bottom end of a shell (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the assembly of LaBuda '818 in view of Citro '081 so as to have a skirt that surrounds the base as in Yang '315 so as to provide for a more a more structurally sound assembly, and to reduce the likelihood of the assembly tipping over.

Allowable Subject Matter

Claims 18 and 19 are allowed.

The following is an examiner's statement of reasons for allowance:

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Regarding claim 18, the prior art failed to specifically teach a method of replacing a trash bag that is supported by a liner in a trash can assembly, comprising:

- a. providing a trash can assembly having: a shell having a top end and a bottom end, a liner defining a container body having a bottom and an enclosing side wall, the liner fitted inside the shell, a lid fitted over the top end of the shell, and a support block provided adjacent the bottom end of the shell;
- b. fitting a trash bag inside the liner;
- c. positioning the liner inside the shell with the support block located side-by-side with the side wall of the container body;
- d. raising the liner with respect to the interior of the shell, and
- e. positioning the liner with the support block located below the bottom of the container body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 12-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action: Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (571) 272-6824. The examiner can normally be reached on Monday-Friday 8-4.


The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
May 17, 2005


RAMON O. RAMIREZ
PRIMARY EXAMINER